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February 2, 2023

VIA ECF

Hon. Ona T. Wang
United States Magistrate Judge
United States District Court, Southern District of New York
500 Pearl Street
New York, NY 10007

Re: *Shaw, et al. v. Hornblower Cruises & Events, LLC*, Case No. 21-cv-10408-VM-OTW


Dear Judge Wang:

Defendant Hornblower Cruises & Events, LLC, respectfully writes to inform the Court that, pursuant to Fed. R. Civ. P. 72, Defendant filed an objection today, February 2, 2023 (ECF No. 83), to the Court's January 30, 2023, Order insofar as it partially grants Plaintiffs' motion to compel with respect to the number of people employed at four locations in California before the March 2020 layoffs (the "denominators"). See ECF No. 82. Defendant's position is that discovery related to California is not appropriate in light of Judge Marrero's dismissal of all California claims from Plaintiffs' Second Amended Complaint, combined with the fact that Plaintiffs failed to cure the basis of that dismissal in its Third Amended Complaint. Judge Marrero has granted Defendant leave to move to dismiss the California claims from the Third Amended Complaint, and that motion to dismiss is briefed and pending decision by Judge Marrero.

In consideration of the foregoing, Defendant requests a stay of the Order, insofar as it requires Defendant to produce California denominators, until a ruling has been issued by Judge Marrero on Defendant's objection. See *Samad Bros., Inc. v. Bokara Rug Co., Inc.*, No. 09 Civ. 5843 (JFK), 2011 WL 4357188, at *6 (S.D.N.Y. Sep. 19, 2011) ("Defendants are entitled to object to a Magistrate Judge's discovery order and are generally not required to comply with that order while the objection is pending.").

Granting the relief requested is the sole manner that will avoid significant prejudice to Defendant should Judge Marrero sustain Defendant's objection. Specifically, a determination by Judge Marrero that sustains the objection would be moot if the denominators were already produced to the Plaintiff. Should Your Honor grant the relief requested herein and Defendant's objection is overruled, Defendant will produce the denominators within two business days.

Stay denied.

So ordered.

USMJ.
2/3/2023

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Sincerely,

/s/ Kevin K. Yam

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